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**FEDERAL COMMUNICATIONS COMMISSION**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

WASHINGTON, D.C.

In re:

AMENDMENT OF SECTION 73.606(b)  
TABLE OF ALLOTMENTS TV  
BROADCAST STATIONS  
WAVERLY, NEW YORK

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)  
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)  
)

MM Docket No.

TO: Chief, Allocations Branch  
Policy and Rules Division

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**PETITION FOR RULEMAKING**

WSKG Public Telecommunications Council ("WSKG"), by its attorneys and pursuant to the Commission's Rules, hereby requests that the Commission institute a rulemaking proceeding to amend Section 73.606 (b) of its Rules to allot Channel \*57- to Waverly, New York, and to reserve it for noncommercial educational use.<sup>1/</sup> Such an amendment would create a preferential arrangement of allotments and would serve the public interest by granting Waverly and Tioga County their first local transmission service and by providing the area's first local source of noncommercial educational programming.

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1/ WSKG is the licensee of the following noncommercial educational radio and television stations: WSKG-TV, Binghamton, WSKG-FM, Binghamton, WSQE-FM, Elmira, WSQG-FM, Ithaca, WSQC-FM, Oneonta, and WSQX-FM, Binghamton, all New York.

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In support of this petition, WSKG submits the following:

- A. Allotment of Channel \*57- to Waverly, New York Would Satisfy the Commission's Allotment Priorities; Channel \*57- Would Constitute the First Local Television Service both to Waverly and to Tioga County.

Currently, the Commission has allotted no channels -- commercial or noncommercial -- to Waverly, New York or to Tioga County, the county in which Waverly is located. The community of Waverly has a 1990 Census population of 4,787 persons; Tioga County has a 1990 Census population of 52,337 persons. See Engineering Statement at p.4. If allotted to Waverly, Channel \*57- would provide first television transmission service to the entire Tioga County population. The allotment could provide a total population of over 475,930 persons with Grade B television service. See Engineering Statement at p.4-5.

The Commission ranks provision of first local transmission service among its most important goals in its Allocation Priorities. See, e.g., Television Channel Assignments, 60 RR2d 784 (1986) (emphasizing the "primary importance" of first local service among allocation criteria). In numerous cases, the Commission has amended the TV Table of Allotments for noncommercial and commercial applicants to provide a first, or even second, local service. See, e.g., Report and Order, MM Docket No. 86-493, 5 FCC Rec. 7570 (released December 17, 1990) (allotting Television Channel 9 to Anchorage, Alaska, and reserving it for educational use "since it could provide a second local voice to the community for the presentation of noncommercial educational programming"); Report and Order, MM Docket No. 95-48, DA 95-1858 (released August 30, 1995) (allotting Television Channel 32 to Weaverville, California, "since it could provide a first local television broadcast service to the community"); Report and Order, MM Docket No. 90-611, 6 FCC Rec. 4293 (released July 12, 1991) (allotting Television Channel 47

to Alamosa, California, "since it could provide the community with its first local commercial television service").

B. No Technical or Regulatory Obstacles Bar the Allotment of Channel \*57- to Waverly, New York.

The present proposal satisfies the minimum required separation distances under the Commission's TV "Freeze" Order, 52 Fed. Reg. 28,346 (1987). See Engineering Statement, at 2. The proposed site is located 259.9 kilometers from New York City and 262.3 kilometers from Philadelphia.

Additionally, the present proposal fulfills all other minimum separation requirements except for a single vacant and unapplied-for noncommercial co-channel allotment, Channel \*57+ in Altoona, Pennsylvania. See Engineering Statement, at 2. The present proposal does not preclude the use of the Altoona allotment because future applicants could use the Altoona channel with a slight technical accommodation. See Engineering Statement, at 2.

C. Allotment of Channel \*57- to Waverly, New York, Would Provide Waverly with a Valuable Source of Noncommercial Educational Programming.

At present, Waverly receives only one noncommercial signal of at least Grade B strength. That signal originates from Station WSKG-TV, licensed to petitioner, in Binghamton, New York. Allotment of Channel \*57- to Waverly would provide the community and most of Tioga County with a second noncommercial reception service with a signal strength of at least Grade B and, more importantly, would provide the first local transmission source of noncommercial television programming in the Waverly community.

The Commission recognizes the value of local programming, especially in the noncommercial, educational broadcast area. See, e.g., Educational TV Assignment at Terre

Haute, Indiana, 19 RR2d 1850, 1853 (1970) ("We have repeatedly announced our policy to forward local programming in the broadcast services. Local programming is essential particularly in the field of education in that local programming can most effectively deal with the specific problems, needs, and interests in the community being served.").

D. Channel \*57- at Waverly, New York, Should Be Reserved for Noncommercial, Educational Use.

The purpose of this petition is to allot a channel, for which WSKG intends to apply, to provide WSKG with an additional channel outlet in the area. WSKG has ascertained that its audience in the area would use and enjoy a variety of additional noncommercial and educational programs; however, there are simply not enough hours in the WSKG(TV) broadcast day to air all these programs. The station currently has at least 8-12 programs available for every time slot in the WSKG(TV) daily schedule. Moreover, WSKG is a PBS member station and PBS is incorporating digital compression technology on the new AT&T Telstar 301 satellite which will allow for the distribution of even more programs and services that could benefit the community. WSKG could use the additional channel capacity of Channel \*57- in order to bring this programming to the communities in the Waverly/Tioga County area.

Yet, at the same time, WSKG is a noncommercial educational broadcaster, faced with dwindling state and federal funds supporting its operations and increasingly reliant on member support and revenue-generating projects. Congress and the Corporation for Public Broadcasting have clearly indicated that noncommercial broadcasters must look for new ways to generate financial support for their operations. See, e.g., Emergency Supplemental Appropriations For Additional Disaster Assistance, For Anti-Terrorism Initiatives, For

Assistance In The Recovery From The Tragedy That Occurred at Oklahoma City, And Rescissions Act, 1995 Pub. L. No. 104-19, 109 Stat. 194, 218 (1995) (drastically cutting federal funding for the Corporation for Public Broadcasting ("CPB"), which provides funds to numerous noncommercial educational broadcasters); H.R. 2127, 104th Cong., 1st Sess. (1995) (proposing additional cuts in funding to CPB by Congress for fiscal year 1998); Paul Farhi, Big Bird Taken Off Death Row; Congress May Soften on Public Broadcasting, The Washington Post, July 13, 1995, at C1 (projecting that Congress will completely phase out funding to CPB by the end of the century); Bill Carter, WNET Braces for Cuts or Worse, The Washington Post, Jan. 25, 1995, at C13 (predicting the complete elimination of public funding for CPB). If permitted to do so by a change in the Communications Act and Commission regulations, WSKG would contemplate use of the Waverly facility (if eventually awarded to WSKG) to generate funds supporting its high-quality noncommercial operations and essential educational character.

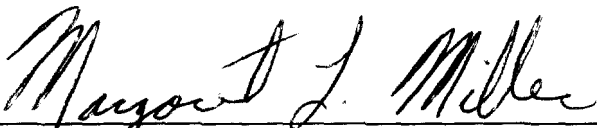
**CONCLUSION**

WSKG intends to apply for Channel \*57-, if allotted to Waverly, New York.

For all of these reasons, WSKG requests that the Commission institute a rulemaking proceeding to amend Section 73.606 (b) of its Rules to allot Channel \*57- to Waverly, New York, and to reserve it for noncommercial educational use.

Respectfully submitted,

WSKG PUBLIC TELECOMMUNICATIONS COUNCIL

By:   
Richard D. Marks  
Margaret L. Miller

Attorneys for Petitioner

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Suite 500

Washington, D.C. 20037

(202) 857-2500

December 11, 1995

**EXHIBIT A**  
**(DECLARATION)**



### DECLARATION UNDER PENALTY OF PERJURY

I, June M. Smith, hereby declare under penalty of perjury that the foregoing facts set forth in this Petition for Rulemaking to amend Section 73.606 of the Commission's Rules are true and correct to the best of my knowledge and belief. Executed on December 8, 1995.

By:

A handwritten signature in cursive script, reading "June M. Smith". The signature is written in black ink and is positioned above a horizontal line.

Title:

Sr. VP & Chief Operating Officer

Date:

December 8, 1995



**EXHIBIT B**  
**(ENGINEERING STATEMENT)**

Bernard R. Segal, P.E.  
Consulting Engineer  
Washington, DC

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**ENGINEERING STATEMENT  
IN SUPPORT OF  
PETITION FOR RULE MAKING TO AMEND  
SECTION 73.606 TABLE OF ALLOTMENTS**

The instant engineering statement has been prepared on behalf of WSKG Public Telecommunications Council in support of a petition for rule making to amend Section 73.606, Table of Allotments, to add noncommercial channel \*57- to Waverly, New York, with a reference site restriction. Waverly is an incorporated village in Tioga County.

The reference coordinates for the proposed allotment are:

42° 04' 33" North Latitude

76° 30' 48" West Longitude.

That site is approximately eight kilometers north of Waverly.

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Consulting Engineer  
Washington, DC

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Engineering Statement  
Waverly, New York

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The reference site is 256.9 kilometers from New York City and 262.3 kilometers from Philadelphia based on the reference coordinates for those communities as given in Section 76.53. The minimum required separation under the freeze order of July 17, 1987, in RM-5811 (Advanced Television Systems and Their Impact on the Existing Television Broadcast Service) is 248.6 kilometers for the Zone 1 situations involved here. Thus, the Waverly allotment proposal is beyond the range of the "freeze" restriction and is acceptable.

The accompanying allocation study for the proposed Waverly, channel \*57- allotment, Figure 1, shows that the specified reference site fulfills all minimum separation requirements of the rules except with respect to the reference site for the vacant and unapplied-for Altoona, Pennsylvania, channel \*57+ noncommercial allotment. A requirement for the proposed Waverly allotment is a change in the reference coordinates for the aforementioned Altoona noncommercial allotment.

The proposed reference site for Altoona that satisfies the 248.6-kilometer minimum cochannel separation requirement of Section 73.610(b) to the indicated Waverly reference site bears the geographic coordinates: 40° 24' 30" North Latitude; 78° 31' 30" West Longitude. The proposed reference site is 15.9 kilometers southwest of the current reference site and is at an elevated location (786 meters AMSL).

The accompanying terrain profile, Figure 2, is drawn from the proposed Altoona channel \*57 reference site through Altoona and demonstrates that no major obstructions intervene between the reference site and Altoona. Other similarly high elevations along the same mountaintop could be employed, as well, while fulfilling the requirement for providing line-of-sight coverage to the principal community and fulfilling the spacing requirement of 248.6 kilometers to the proposed Waverly allotment reference. Other than for the proposed Waverly allotment, no cochannel or other taboo stations or allotments are close enough to the Altoona channel \*57+ proposed allotment reference site to be of concern.

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Consulting Engineer  
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Engineering Statement  
Waverly, New York

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If a modest height supporting tower were employed at the proposed Altoona channel \*57 reference site so that the antenna radiation center would be at an elevation of, say, 860 meters above mean sea level, the corresponding height above the terrain average from 3.2 to 16.1 kilometers would be in the order of 400 meters. An effective radiated power of approximately 11 dBk (12.5 kW) would be all that would be needed to provide 80 dBu encompassment of Altoona. The foregoing demonstrates that the change proposed in the reference coordinates for the Altoona channel \*57 allotment would not render the allotment unusable.

The allotment of channel \*57- to Waverly would represent the first television allotment to the community and the first to Tioga County in which Waverly is located. According to the 1990 Census, Waverly has a population of 4,787 persons. Tioga County has a population of 52,337 persons. It is WSKG's intent to file an application for construction permit expeditiously once the allotment is finalized. The facilities proposed to be employed will provide Grade B service in whole, or in part, to counties in New York and Pennsylvania adjoining Tioga County. Those counties are: Chemung, Tompkins, and Broome

in New York; Bradford, Susquehanna and Tioga in Pennsylvania. The aggregate 1990 population of those counties plus Waverly's Tioga County, is 475,930 persons.

The only noncommercial signal strength of Grade B or better available in Waverly is from station WSKG, Binghamton, New York. The allotment of channel \*57 will afford Waverly and most of Tioga County the opportunity to have a second noncommercial reception service with signal strength of Grade B or better.

In summary, the instant proposal is acceptable under the terms of the current freeze. Also, as demonstrated herein, the proposed Waverly, channel \*57- allotment fulfills all FCC separation requirements when a concurrent change in the reference site for Altoona, channel \*57+ is made in the manner suggested. Adoption of the proposed Waverly allotment will afford the community and Tioga County in which Waverly is located, the opportunity for a first television transmission service. Tioga County and most of the adjoining

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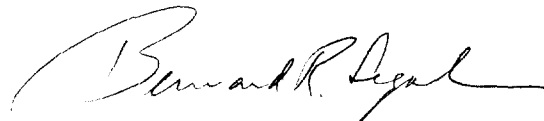
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Engineering Statement  
Waverly, New York

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counties will be afforded the opportunity for an additional noncommercial television reception service.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 8, 1995.



Bernard R. Segal, P.E.

**ENGINEERING STATEMENT  
IN SUPPORT OF  
PETITION FOR RULE MAKING TO AMEND  
SECTION 73.606 TABLE OF ALLOTMENTS**

Allocation Study  
Waverly, New York, Channel \*57-

Reference Coordinates: 42° 04' 33" North Latitude  
76° 30' 48" West Longitude

<u>Taboo Channel</u>	<u>Closest Station or Allotment</u>	<u>Geographic Coordinates</u>	<u>Distance</u>	
			<u>Actual</u> (km)	<u>Required Minimum</u> (km)
*57+	Altoona, PA	40°30'55" N <sup>1</sup> 78°24'03" W	234.6	248.6
57z	WGBS-TV Philadelphia, PA	40°02'21" N 75°14'13" W	250.3	248.6
*65+	Ithaca, NY	42°26'32" N 76°29'51" W	40.7	31.4
49	None sufficiently close for concern			31.4
52z	Ithaca, NY Appl., BPCT-950320KH <sup>2</sup>	42°21'49" N 76°36'20" W	32.9	31.4
53	None sufficiently close for concern			

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<sup>1</sup> A new reference site is proposed for this vacant and unapplied-for allotment. The new reference site bears the geographic coordinates: 40°24'30" North Latitude; 78°31'30" West Longitude. It is 250.5 kilometers from the proposed Waverly reference site.

<sup>2</sup> Closest of three pending mutually exclusive applications.



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Allocation Study  
Waverly, New York

Figure 1  
Sheet 2 of 2

Reference Coordinates: 42° 04' 33" North Latitude  
76° 30' 48" West Longitude

Taboo Channel	Closest Station or Allotment	Geographic Coordinates	Distance	
			Actual (km)	Required Minimum (km)
60	None sufficiently close for concern			
61	None sufficiently close for concern			
62	None sufficiently close for concern			
56+	Syracuse, NY BPCT-941024KE <sup>1</sup>	42°57'19" N 76°06'34" W	103.2	87.7
58	None sufficiently close for concern			
64z	WSWB-TV Scranton, PA	41°26'09" N 75°43'33" W	96.7	95.7
50	None sufficiently close for concern			
43	WNYS-TV Syracuse, NY	43°03'33" N 76°08'10" W	113.5	95.7
*42z	Oneonta, NY	42°27'18" N 75°03'38" W	127.1	119.9

<sup>1</sup> Closest of three pending mutually exclusive applications.

DECEMBER 1995

40° TRUE TERRAIN PROFILE  
PROPOSED ALTOONA CH \*57 REFERENCE SITE  
(40° 24' 30" N.L; 78° 31' 30" W.L)  
THROUGH ALTOONA

WSKG PUBLIC TELECOMMUNICATIONS COUNCIL

Bernard R. Segal, P.E. Consulting Engineer

Terrain data from  
USGS 3" database

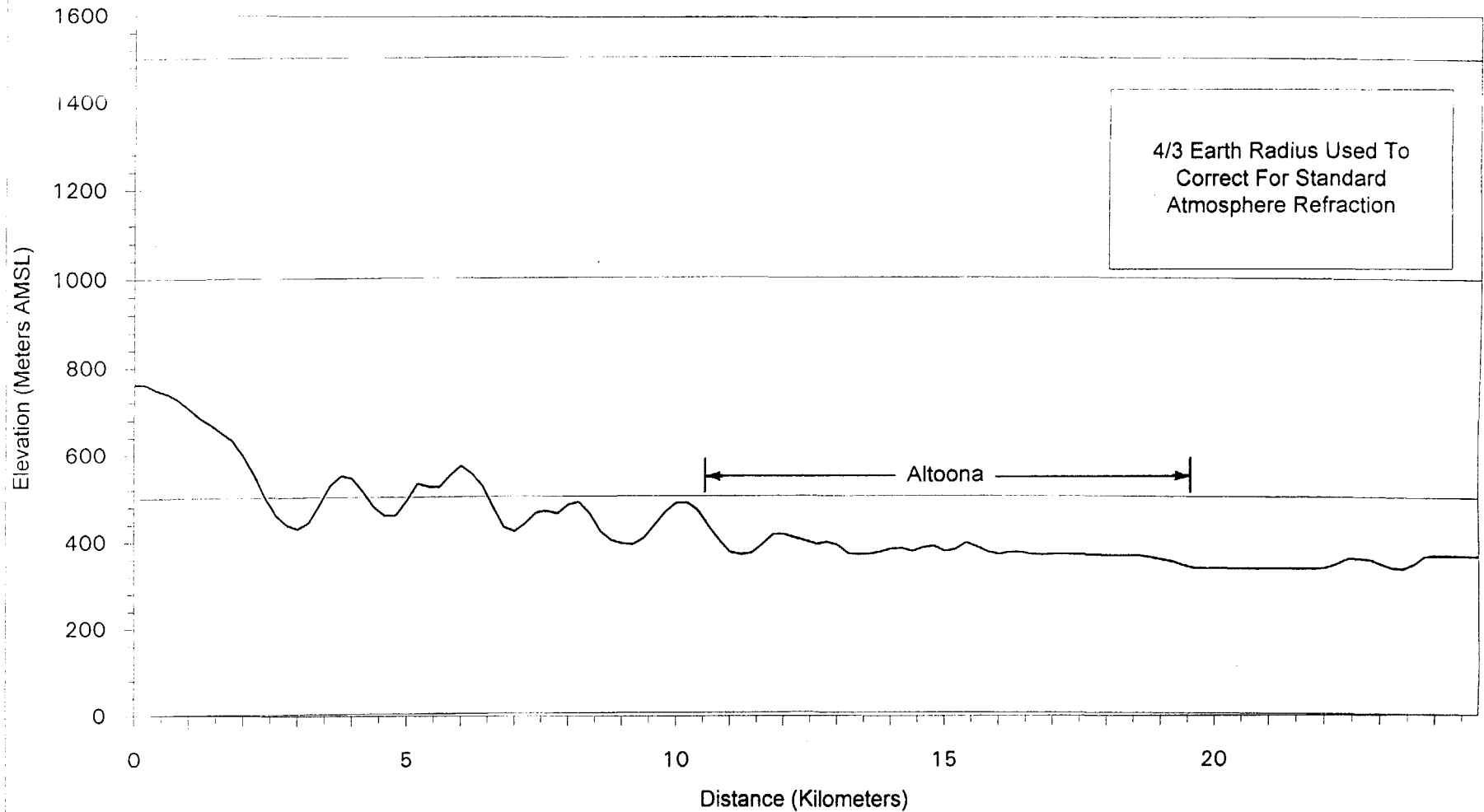


Figure 2